



QUEENSLAND
FARMERS'
FEDERATION

RPI Act and Subsidence Framework

Prepared by:

Name: Jo Sheppard, QFF CEO

E: qfarmers@qff.org.au

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The background of the document features a photograph of a rural landscape. On the right side, a tall, lattice-structured windmill stands against a hazy, orange-tinted sky. In the foreground, a dirt road runs parallel to a shallow, muddy water channel. The ground is dry and brown, with some sparse green grass. A diagonal blue line cuts across the bottom right corner of the page, separating the text from the rest of the image.

The united voice of
Queensland agriculture

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This submission is provided to:

To: Department of State Development, Infrastructure, Local Government and Planning
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Our members

- Canegrowers
- Cotton Australia
- Queensland Fruit & Vegetable Growers
- Nursery & Garden Industry Queensland
- eastAUSmilk
- Australian Cane Farmers Association
- Queensland United Egg Producers
- Turf Queensland
- Queensland Chicken Meat Council
- Pork Queensland
- Bundaberg Regional Irrigators Group
- Burdekin River Irrigation Area
- Central Downs Irrigators Ltd
- Fairburn Irrigation Network
- Mallowa Irrigation
- Pioneer Valley Water Co-operative Ltd
- Theodore Water Pty Ltd
- Eton Irrigation
- Queensland Oyster Growers Association
- Lockyer Water Users Forum

About the Queensland Farmers' Federation



The Queensland Farmers' Federation (QFF) is the united voice of agriculture in Queensland.

We are a member-based organisation representing the interests of peak agriculture industry organisations (both state and national). Through our members, QFF represents more than 13,000 primary producers across the cotton, cane, horticulture, dairy, nursery and garden, poultry, pork, and intensive animal industries.

We unite the sector to engage in a broad range of economic, social, environmental, and regional issues through advocacy, policy development, and project activity. We work with the government of the day on behalf of industry, farmers, and the community to provide powerful representation and contribution to the policy direction, sustainability, and future growth of Queensland's agriculture sector.

Our Council of member representatives and policy committees set the strategic priorities for policy development and advocacy, while our Executive Board ensures our corporate governance.

QFF draws on the expertise and industry knowledge of our members, and through our commitment to collaboration and considered policy development, we lead Queensland's agriculture sector towards a strong future, ensuring our members are ahead of the game and have a voice at the table on the issues that matter to their members.

Submission

QFF welcomes the opportunity to provide feedback on the proposed reforms to the coexistence framework and the Regional Planning Interests Act 2014.

QFF restates the fundamental principles articulated in prior submissions which focus on the need to protect high value agricultural land and the sustainability of aquifers relied upon for agricultural production and vibrant rural communities, as well as the protection and enhancement of landholder rights ensuring land access agreements are fair and equitable. There remains a diversity of views in relation to CSG coexistence amongst growers but strong support that these fundamental principles must be underpinned.

Agriculture is still seeking a definition of 'coexistence' in the various legislative components that will make up the coexistence framework and clarification regarding the order of events that will apply to the Land Access Risk Assessment, Subsidence Management Framework and RPI Act considerations.

It remains that many landholders will not hold confidence in the Government's management of CSG impacts on land and water resources until a critical impact mechanism is put in place providing a regulated process allowing critical impacts to be recognised and addressed.

Expansion of the Office of Groundwater Impact Assessment's role

QFF maintains its previous position in supporting the Office of Groundwater Assessment (OGIA) and the valuable work they are doing in providing science based, independent, trusted information. QFF continues to support OGIA's role in carrying out the regional predictive modelling and this being extended to identify areas where farming operations are at higher risk of being disrupted by subsidence. The role of OGIA is playing an important role in undertaking evidence-based independent scientific assessment of cumulative groundwater impacts from resource operations and has been a trusted source of independent science.

QFF supports the proposed expansion of OGIA's functions to include a requirement to undertake cumulative assessment of CSG-induced subsidence including modelling, monitoring, and a risk assessment. In addition, based on the assessment, OGIA will prepare a management strategy that will identify requirements for collecting baseline information, follow-up farm field assessments and inter-farm drainage impact assessments. It is necessary that the work of OGIA covers both farm scale, sub-regional and regional assessments.

QFF also supports that the assessment and management strategies should be prepared every 3-5 years and reported through a Subsidence Impact Report and that prior to finalising the report, OGIA will be required to undertake a public consultation process and seek an independent review of the core elements of the assessment.

It would be beneficial for OGIA's role to be able to be expanded in the future without the need for legislative change. It would also seem logical for OGIA to have a role in addressing emerging technologies and future planned activities that relate to underground water, geology and aquifer systems, such as carbon capture and storage. QFF believes both these points should be addressed in the proposed amendments and to not do so will be a missed opportunity and potentially create the need to further revisit OGIA's role at a time in the future at additional cost and unnecessary additional time burdens of the requirement for legislative change.

It is critical that the expansion of OGIA's role is adequately resourced and supported (both from a financial investment and skills capacity perspective) to enable OGIA to continue the capacity to deliver high quality work, as they have done to date. If OGIA is to be assigned the Risk Assessment role, it will be necessary for OGIA to be able to access agronomic expertise. QFF supports suggestions that a periodic independent scientific review of OGIA's work to ensure it always demonstrates the best available science would be worthwhile and result in continuation of trust in OGIA's work.

Subsidence management framework

It is now evident that landscape wide subsistence is and will occur from the extraction of Coal Seam Gas. The economic impact to the productive capacity of the land is still to be determined with different landholders reporting varying impacts.

QFF supports the development of a government regulated, legally binding CSG-Induced Subsidence Management Framework but strongly opposes removing the consideration of subsidence from the RPI Act and placing all consideration into the MERC Act.

QFF notes that in spite of the subsidence management framework largely being developed to ensure the ongoing viability of the agriculture sector, the Department of Agriculture (DAF) has not been included at any point in the framework. QFF submits that DAF, who are the responsible department

for maintaining and enhancing the future of agriculture in Queensland, should be included in this process.

QFF supports the views of Cotton Australia in recommending that the Queensland Government initiate an independent scientific inquiry into matters of concern raised by landholders on the Darling Downs. QFF believes that an effective independent review will provide concerned landholders with further scientific evidence to give confidence in matters of concern and it would also add value to the confidence in the good work already undertaken by OGIA.

QFF raises concerns that there is no provision for critical consequences in the proposed new framework and submits that any new subsidence framework should sit under the RPI Act and not the MERCPC. It is not appropriate that the framework be administered by the Department of Resources due to their vested interests in progressing the resource sector. It would be more appropriate for the framework to be administered by the more impartial DSDILGP and continuing with the multifaceted assessment process that currently occurs. Feedback to QFF has also suggested that it might be appropriate for OGIA to model the magnitude of subsidence as proposed but that DAF assesses the consequences.

QFF supports the need for both farm field assessments and inter farm drainage assessments but submits that the work should not be carried out by the Tenure Holder unless the tenure holder has the express permission by the landholder to carry-out the work. Otherwise, QFF submits that the assessment should be carried out by an agreed third-party provider, with the necessary skill sets including in relation to farm production, agronomy and agriculture more broadly.

Furthermore, many landholders will not be comfortable with the tenure holder preparing respective Subsidence Management Action Plans. QFF proposes that whilst the tenure holder should have the responsibility of meeting all costs (including the landholder's time) the Subsidence Management Action Plan should be prepared by an independent third party mutually agreed upon by the landholder and the tenure holder.

In relation to the dispute resolution framework, QFF reiterates that all land holder costs should be met by the tenure holder and QFF seeks clarification as to whether the proposed dispute resolution pathways apply to all agreements i.e. Farm Field Assessments; Inter-Farm Drainage Assessment; Subsidence Management Action Plan; Subsidence Agreement.

Clarification is required as to if, by signing a Subsidence Agreement, does this waiver a landholder's future ability to seek compensation un S81 of the MERCPC Act.

Where landholders outside of an 'area of interest' believe they are experiencing impacts as a result of subsidence, an independent impact assessment process should be made available to them and if the independent impact assessment process confirms material impact, the landholder and tenure holder would then enter into the subsidence management framework process. If required, the dispute resolution process would also apply in this situation. This needs to be clarified.

Whilst there is general agreement on the importance of baseline data, a clear understanding of what baseline data is required, how it will be collected, how it will be used and who will be able to access it is still not clear. QFF submits that any landholder costs (including landholder time, any independent expert advice they need to seek etc) relating to provision of data must be met by the tenure holder and landholders should have access to raw data and associated analysis resulting from the data. Landholders must be assured that appropriate and effective data access / storage / privacy and

security measures are guaranteed in relation to the data they are expected to provide to the tenure holder.

Finally, QFF supports landholder requests that a comprehensive economic analysis of the cost of subsidence impacts to farming enterprises, including overland flow, be carried out. This information is an important component of any informed decision-making process moving forward. Clarification is required as to how regional cumulative impacts are to be assessed and whether the regional risk assessment will be publicly available.

Land Access Risk Assessment Framework

QFF understands that the proposed changes can be summarised as follows:

The tenure holder is to complete a risk assessment to determine if an activity is preliminary or advanced. This is significantly different to the current process in which preliminary and advanced activities are defined in the MERC Act

The risk assessment is to be provided to landholders with proposed activity on or under their property and the landholder may dispute the risk assessment and activity classification and ask the LAO to investigate and make a binding decision on the activity.

The risk assessment is to be provided to landholders with proposed activity on or under their property a minimum of 20BD prior to commencement of the proposed activity and there is a period allowed for landholder review of the risk assessment (20BD).

If the risk assessment is contested, the Land Access Ombudsman may investigate and call on expert advice to make a determination.

This proposed approach is likely to significantly extend the time taken to access land for preliminary activities. Currently, an entry notice can be provided 10BD prior to entry for a preliminary activity and then the activity can occur. Under the proposal a potential timeline for entry will be as follows:

Tenure holder prepares risk assessment and provides to the landholder a minimum of 20BD prior to the activity occurring.

The landholder has a period for review, assumed to be 20BD but the wording in the paper is unclear. If the risk assessment is contested, the LAO may investigate - it is unclear how long is allowed for this. The document mentions 20BD following receipt of the risk assessment, but it is unclear if this is the landholder review period or the LAO investigation timeframe.

It appears then, as an absolute minimum, there is an additional 40BD (8 weeks) added to the notification period for a preliminary activity and it could be significantly more than depending on the time taken by the LAO to complete their investigation and make a determination.

As previously stated QFF opposes any change to RPI Act Section 22, which removes the requirement to assess the impact of subsidence. QFF is supportive in principle of the framework which is intended to make improvements, but it requires further work.

Specifically, QFF does not support the assessment of whether an activity is advanced or preliminary being decided by a tenure holder. QFF submits that this assessment would be better made by an

independent third party, or at the very least, in conjunction with close direction from the Department.

QFF submits that there needs to be further clarification relating to the process and timeframes from the initial provision of a risk assessment to a landholder through to final determination. It is also unclear as to whether cumulative impacts, such as groundwater impacts and CSG induced subsidence are exempt from consideration as an impact in the risk assessment. CSG induced subsidence on a property is likely to be the result of multiple wells in an area rather than just the well/s being considered in the risk assessment.

Clarification needs to be provided as to whether this will apply retrospectively to existing development areas and whether or not the Land Access Risk Assessment is intended to replace the Notice of Entry obligations in the Land Access Framework.

QFF raises concerns regarding the landholder review period and submits that a flexibility clause must be included in recognition of farm operational demands that can change at any time in response to a range of unplanned pressures including climatic and seasonal conditions. It is not fair to impose rigid timeframes that have no flexibility to be able to recognise the fact that farmers simply have to prioritise farm operations during some periods during the year. It is a reasonable expectation that a landholder review period includes flexibility for time extensions when genuinely required.

QFF seeks clarification as to whether the LAO has a time limit in which to make a determination on any dispute matters and whether or not a landholder who is not satisfied with a decision made by the LAO will have the ability to take the matter further to the Land Court.

QFF reiterates previous submissions in recommending that an independent, legal advice service specifically for landholders would be appreciated and of assistance for farmers.

Proposed amendment of the GFC Act to revise the GFCQ's existing functions / remit

QFF has previously submitted that there is a need for the Commission to play an informative and educational role regarding renewable energy developments to support participating landholders reach fair and appropriate agreements. Increasing competition for land use and associated complexities are presenting both opportunities and challenges for landholders and regional communities and an expanded GFCQ remit will be able to assist in these processes.

It is imperative that the GFCQ be adequately resourced from both a financial and human resource / appropriate skills perspective to ensure that its expanded remit is able to be well delivered and in no way detracts from its current remit. With numerous renewable energy developments already well under way, it is also important that the expanded GFCQ remit is actioned swiftly with an opportunity for industry to review proposed relevant legislative amendments.

Proposed amendments to the Regional Planning Interests Act 2014 (RPI Act)

QFF has long standing concerns that the purpose of the RPI Act does not reflect community expectations to protect regional interests of high-quality agricultural land. The purpose of an Act is important because it is used to help interpret the application of the Act, particularly where there is any uncertainty in the provisions. The purpose and operation of the Act should be updated and made clear the priority of the RPI Act is the protection of areas of regional interest including high-quality agriculture land, not facilitating resource activity by managing coexistence.

QFF has submitted over many years concerns that the RPI Act does not provide the level of certainty and strength of protection that is needed to ensure remaining areas of high-quality agricultural land are safeguarded from inappropriate development. QFF are concerned that some of the current proposed amendments will in effect weaken landholder protections and in fact will not achieve the improved overall transparency, clarity and usability of the Act, as intended by exercise.

Whilst the Act and Plan did not go far enough to protect Strategic Cropping Land and Priority Agricultural Areas on behalf of the State, it did provide some power and protection to the landholder if the land holder did not wish to enter into a voluntary agreement.

As such, QFF submits the following concerns, observations, and comments:

Is the removal of the assessment of subsidence impacts from the draft eligibility criteria, in relation to the section 22 exemption intended to extend to the Act in its entirety. Clarification is required to understand if the intention is to remove the assessment of subsidence from the RPI Act and regulation entirely or not.

QFF is concerned that the proposed changes will weaken landholder rights, and on that basis, QFF strongly opposed to the proposed changes to Section 22 of the Act. Currently the Act provides some power to the landholder, requiring a Regional Planning Interest Act application if there is likely to be a significant impact on either on the Landholder land or someone else's land.

As it is now known that CSG induced subsidence will occur and therefore a landholder should be able to request and assessment of that impact to determine its significance. It is also known that impacts will vary across landscapes and as such they should be subject to individual assessment. QFF opposed the proposed changes to Section 22 as the changes represent a significant loss of existing Landholder rights.

QFF supports the proposed introduction of a requirement for the resource authority holder to provide the State with a declaration that appropriate consultation with landowners and adjoining landowners has been undertaken and that any activities utilising an exemption (under the RPI Act or new eligibility criteria pathway) are disclosed on a public facing register of exemption. QFF seeks clarification regarding who will ultimately be responsible for the administration, accuracy and integrity of the register. QFF also supports that these measures are enforceable through meaningful and effective provisions but notes that offence provisions must be significant enough to motivate and ensure compliance on behalf of the tenure holder and the ability to enact a 'Stay of Operations' should be provided.

QFF opposes any changes that may in effect reduce landholder protections or potentially reduce clarity and usability of the Act from a landholder's perspective.

Conclusion

QFF supports the introduction of a subsidence management framework, however, QFF strongly opposes the proposed removal of the management of CSG induced subsidence impacts from the RPI Act as this would in effect, weaken landholder protections. It is critical that landholders have equal representation, available resources and bargaining power and that there is a formal mechanism for farmers to be involved in assessment processes.

It should not be assumed that coexistence can be achieved everywhere, and it must be understood that impacts can vary from farm to farm and from region to region. QFF believes further work is required before proposed changes can be supported to be implemented and requests that feedback from the agricultural sector on this matter are fully considered and responded to.

QFF appreciates the opportunity to provide input on these important issues and welcomes further opportunities for engagement.

Yours sincerely

Jo Sheppard

Chief Executive Officer

Queensland Farmers' Federation



This submission is provided by the Queensland Farmers' Federation

PO Box 12009 George Street, Brisbane Qld 4003
Level 8, 183 North Quay, Brisbane Qld 4000
ABN 44 055 764 488

Contact QFF

E: qfarmers@qff.org.au
P: 07 3837 4720
W: www.qff.org.au

